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3
4 **BEFORE THE PUBLIC DISCLOSURE COMMISSION**
5 **OF THE STATE OF WASHINGTON**

6 IN RE COMPLIANCE
7 WITH RCW 42.17

) PDC CASE NO.: 04-130
)
)

8 Al Kiefer

) **FINAL ORDER IMPOSING FINE**
)
)

9 Respondent.)
10 _____)

11 **INTRODUCTION**

12 The Washington State Public Disclosure Commission (Commission) conducted an
13 enforcement hearing (adjudicative hearing) under chapters 34.05 and 42.17 RCW and chapter
14 390-37 WAC on December 10, 2003 with respect to the above-encaptioned matter. The
15 Commission held the hearing at Evergreen Plaza Building, Room 206, 711 Capitol Way
16 South, in Olympia, Washington. The Commission held the hearing to determine whether the
17 Respondent violated RCW 42.17.240 by failing to file a Statement of Financial Affairs within
18 two weeks of becoming a candidate for Fire Commissioner in Whatcom County Fire
19 Protection District 10 in the 2003 election, or by August 15, 2003. The Staff appeared
20 through Philip E. Stutzman, Director of Compliance. The Respondent appeared at the hearing
21 by telephone and addressed the Commission.
22

23 During the hearing, the Staff presented, for the Commission's consideration, the
24 Notice of Administrative Charges issued November 19, 2003, which alleged a violation of
25 RCW 42.17.240, and its exhibits, which included: 1) Declaration of Candidacy of Al Kiefer;
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1 2) August 19, 2003 Warning Letter reminding the Respondent to file the missing F-1 report;
2 3) August 29, 2003 Brief Enforcement Hearing Notice; and 4) Affidavit of Tony Perkins
3 attesting to his search for the F-1 report among the electronic images maintained by the PDC.
4 The Notice of Administrative Charges and exhibits are incorporated by reference into this
5 Order.
6

7 After due consideration of the Notice of Administrative Charges and its exhibits, and
8 oral argument by Staff and the Respondent, the Commission makes the following findings and
9 enters the following order.

10 **FINDINGS**

11 Based on this record, the Commission enters the following findings.

- 12 1. The Respondent stated that he had not received past mailings and hearing notices. He
13 stated that he had filed past F-1 reports but could not remember where he sent them. He
14 stated that his accountant filed the forms for him.
15
- 16 2. RCW 42.17.240 requires candidates to file with the commission a Statement of Financial
17 Affairs for the preceding twelve months. The report is due within two weeks of becoming
18 a candidate.
19
- 20 3. The Respondent is an incumbent Fire Commissioner who was a candidate for re-election
21 in 2003. His name appeared on the general election ballot on November 4, 2003. The
22 Respondent filed a Declaration of Candidacy with the Whatcom County Auditor on
23 August 1, 2003 for the position of Fire Commissioner in Whatcom County Fire Protection
24 District 10.
- 25 4. The Respondent was reminded by letter on August 19, 2003 to file the missing F-1 report.
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1 The Respondent was notified on August 29, 2003 that he was scheduled for a brief
2 enforcement hearing on September 10, 2003. The notice gave him the opportunity to file
3 the missing report, stipulate to a violation and pay a \$100 penalty to avoid a brief
4 enforcement hearing.

5
6 5. At the brief enforcement hearing on September 10, 2003, the Presiding Officer, Susan
7 Brady, stated that based on the Penalty Schedule previously adopted by the Commission
8 for candidates, Mr. Kiefer's case would be heard by the full Commission.

9 6. The F-1 report due by August 15, 2003 has not been received.

10 7. In Case #03-342, the Respondent has not paid an outstanding penalty of \$300 for failing to
11 timely file his annual F-1 report due by April 15, 2003.

12 8. In Case #02-466, the Respondent has not paid an outstanding penalty of \$150 for failing to
13 timely file his annual F-1 report due by April 15, 2002. On January 9, 2003, the case was
14 sent to the Attorney General's Office for further action.
15
16

17 **ORDER**

18 The Commission orders as follows:

- 19
20 1. That the Respondent committed a single violation of RCW 42.17.240.
21 2. That a total civil penalty of \$1,000 is assessed against the Respondent.
22 3. That \$500 is suspended on the condition that the Respondent pays all unpaid penalties
23 within 30 days of the date of this Order.
24
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1 **RECONSIDERATION OF FINAL ORDER - COMMISSION**

2 Any party may ask the Commission to reconsider this final order. Parties must place
3 their requests for reconsideration in writing, include the specific grounds or reasons for the
4 request, and deliver the request to the Public Disclosure Commission Office within **TEN (10)**
5 **days** of the date that the Commission serves this order upon the party. Pursuant to RCW
6 34.05.470(3), the Public Disclosure Commission is deemed to have denied the petition for
7 reconsideration if, within twenty (20) days from the date the petition is filed, the Commission
8 does not either dispose of the petition or serve the parties with written notice specifying the
9 date by which it will act on the petition. Pursuant to RCW 34.05.470(5), the Respondent is
10 not required to ask the Public Disclosure Commission to reconsider the final order before
11 seeking judicial review by a superior court.
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15 **FURTHER APPEAL RIGHTS – SUPERIOR COURT**

16 Pursuant to RCW 42.17.395(5), a **final order** issued by the Public Disclosure
17 Commission is subject to judicial review under the Administrative Procedures Act, chapter
18 34.05 RCW. The procedures are provided in RCW 34.05.510 - .598. Pursuant to RCW
19 34.05.542(2), a petition for judicial review must be filed with the superior court in Thurston
20 County or the petitioner's county of residence or principal place of business. The petition for
21 judicial review must be served on the Public Disclosure Commission and any other parties
22 within **30 days** of the date that the Public Disclosure Commission serves this final order on
23 the parties.
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25 If reconsideration is properly sought, the petition for judicial review must be served on
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1 the Public Disclosure Commission and any other parties within thirty (30) days after the
2 Commission acts on the petition for reconsideration.

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5 **ENFORCEMENT OF FINAL ORDERS**

6 The Commission will seek to enforce this final order in superior court under RCW
7 42.17.395-397, and recover legal costs and attorney's fees, if the penalty remains unpaid and
8 no petition for judicial review has been filed under chapter 34.05 RCW. This action will be
9 taken without further order by the Commission.

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11 DATED THIS 24th day of December, 2003.

12
13 FOR THE COMMISSION:

14 /s/

15 _____

16 VICKI RIPPIE, Executive Director

17 *MAILING DATE OF THIS ORDER:*

18
19 _____

20 *Copy mailed to:*

21 Linda Dalton, Senior Assistant Attorney General